

Commercial Spiny Lobster Tailing and Post-Season Possession Survey Results

California Department of Fish and Wildlife (06/23/2022)

June 24, 2022

Background Information

Some members of the commercial lobster fleet contacted California Department of Fish and Wildlife (Department) staff in May 2020 to propose a change in the regulations to allow lobster to be tailed at some point after being landed. Currently, lobster cannot be tailed until prepared for immediate consumption or sold to the ultimate consumer (CCR Title 14 § 121.5(c)). The intention of this requested change, as it was communicated to the Department, is to diversify the lobster market as well as improve and expand domestic sales by allowing lobster to be tailed and packaged for sale. In addition, some in the commercial fishery have asked about a change to allow buyers and markets to possess live lobsters up to 7 days after the season closes. This would allow fishing to occur up to and including the last day of the season, since buyers would not need to sell live catch before the season closes. Currently, the possession or sale of lobster is prohibited after the season.

On February 9, 2022, Department staff mailed and emailed a lobster tailing and post-season possession survey to 215 commercial lobster fishers and buyers, which included all valid commercial lobster permit holders and buyers who purchased lobster in the last three seasons. This survey was designed to assess the fleet-wide and buyer-wide level of support of the two requested changes. As of June 7, 2022, the Department received 105 responses (48.8% response rate).

In the survey, the following minimum recommended rules were presented as conditions if the Department were to pursue lobster tailing:

- Existing carapace size limit applies to all lobsters prior to landing, and to all lobster kept whole after being landed.
- Only commercial processors would be allowed to tail lobsters at a land-based address after landing. Tailing would not be allowed on a boat, in a vehicle, at the dock, or any place other than the land-based address.
- Tailed lobsters could not be possessed on a commercial vessel regardless of if they were landed or not.
- A minimum tail width would be established to ensure that a given tail came from a legal (3.25-inch carapace length) lobster.
- Tail widths would be sex-specific and conservative to minimize the chance that lobsters less than 3.25 in carapace length would enter the tail market.
 - 2.5 inches for males and 2.75 inches for females, measured in a straight line between the tip of the spines on the second abdominal segment just above the first pair of pleopods.

- A marking system (e.g., tail clip or tagging program) may be needed to identify sport-caught lobster from commercially caught lobster to minimize black market lobster tails.

Not every legal-size lobster would qualify for the tail market. From existing data, female lobsters with a carapace length of 3.25-3.75 inches have a tail width range of 2.0 to 3.0 inches with 64% having a tail width of 2.75 inches or greater making them available for a tail market. Male lobsters with a carapace length of 3.25-3.75 inches have a tail width range of 1.3 to 3.1 inches with 57% having a tail width of 2.5 inches or greater. However, these tail widths would result in a less than 0.5% chance that lobsters with a legal tail width came from a sublegal carapace length.

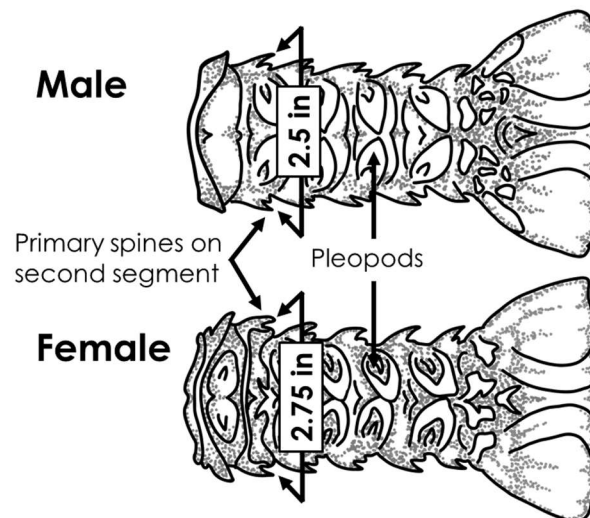


Figure 1. Proposed legal lobster tail widths and method of measuring for male and female lobsters. Tail width would be measured at the widest point on the second segment of the tail.

For post-season possession of live lobster, the following recommended restrictions were included:

- No lobsters would be allowed on commercial fishing vessels after the season.
- For enforcement purposes, an additional change would be recommended to require all lobster traps be removed by the last day of the season instead of the current allowance for unbaited and open traps to remain in the water for 9 days after the season closes.

Key Takeaways from Survey Results

- About half of respondents (n = 56) do not support a change allowing lobsters to be tailed, about 1/3 of respondents support a change, and the rest were uncertain or did not answer. Responses were as follows: Yes = 33; No = 56; Uncertain = 14; Did Not Answer = 2.
- Of the 105 respondents, 71 hold permits and made landings during the 2021-22 commercial lobster season (active permit holder). Of those 71, 19 (27%) support

lobster tailing, 40 (56%) do not support lobster tailing, and 10 (14%) are uncertain. Two active permit holders (3%) did not answer the question.

- Active permit holder support for tailing varied regionally with 19% of southern-based fishers (San Diego, Orange, and Los Angeles counties; n = 42) in support, while 41% of northern-based fishers (Ventura and Santa Barbara counties; n = 27) support tailing. Two active permit holders did not answer the question.
- Based on responses to multiple questions, fishery participants are primarily interested in utilizing a tail market as a back-up plan and would not participate in a tail market when the live market is performing well.
- Buyers have a bigger interest in a tail market than permit holders do; 44% of respondents who are buyers in some capacity support lobster tailing, while 27% of those who only hold lobster permits support lobster tailing.
- Of those opposed to tailing, opening the door for illegal commercialization is the most common reason for the opposition.
- Most respondents to the question regarding allowance for possession of live lobsters after the season closure (n = 52) do not support such a change, given the recommended conditions. Responses were as follows: Yes = 38; No = 52; Did Not Answer = 15.

Recommendations

Based on these survey results, Department staff does not recommend including a regulatory change that would allow for lobster tailing at this time. Doing so would significantly delay the current proposed regulatory changes and expand the scope of the proposed rulemaking beyond its original intention. The scope of the proposed regulatory package is focused on needed adjustments to regulations implemented in 2017. If this change is to be pursued, the support, need, and consequences of lobster tailing need to be further vetted and explored.

Additionally, Department staff does not recommend including a regulatory change that would allow for the possession of live lobster after the season closure conditional on all lobster traps being out of the water by the last day of the season. Fleet support, specifically permit holder support, was not high enough to warrant pursuing such a change.

Survey Question Responses

QUESTION 1. Do you support a change allowing lobsters to be tailed, given that setting conservative legal tail widths would mean not all catch could be tailed?

Question 1 was intended to assess overall support of a change allowing lobsters to be tailed, given the recommended restrictions set forth in the survey background information. In response to Question 1, 56 respondents replied "No", 33 replied "Yes", 14 were "uncertain", and 2 did not answer the question (Figure 2). The respondents who replied yes accounted for 17.9% of lobster landings by weight for the 2021-22 commercial season. The respondents who replied no accounted for 30.2% of lobster

landings by weight and the respondents who were uncertain accounted for 8.2% of lobster landings by weight (Figure 3).

- Of the 105 respondents, 71 hold permits and made landings during the 2021-22 commercial lobster season (Figure 4). Of those 71, 19 (27%) support lobster tailing, 40 (56%) do not support lobster tailing, and 10 (14%) are uncertain. Two active permit holders (3%) did not answer the question. Of the active permit holders who replied “Yes” to Question 1, 8 fished in the southern region of the fishery (San Diego, Orange, and Los Angeles counties) and 11 fished in the northern region of the fishery (Ventura and Santa Barbara counties). Of the active permit holders who replied “No” to Question 1, 32 fished in the southern region and 8 fished in the northern region. Two southern permit holders and 8 northern permit holders replied “Uncertain”.

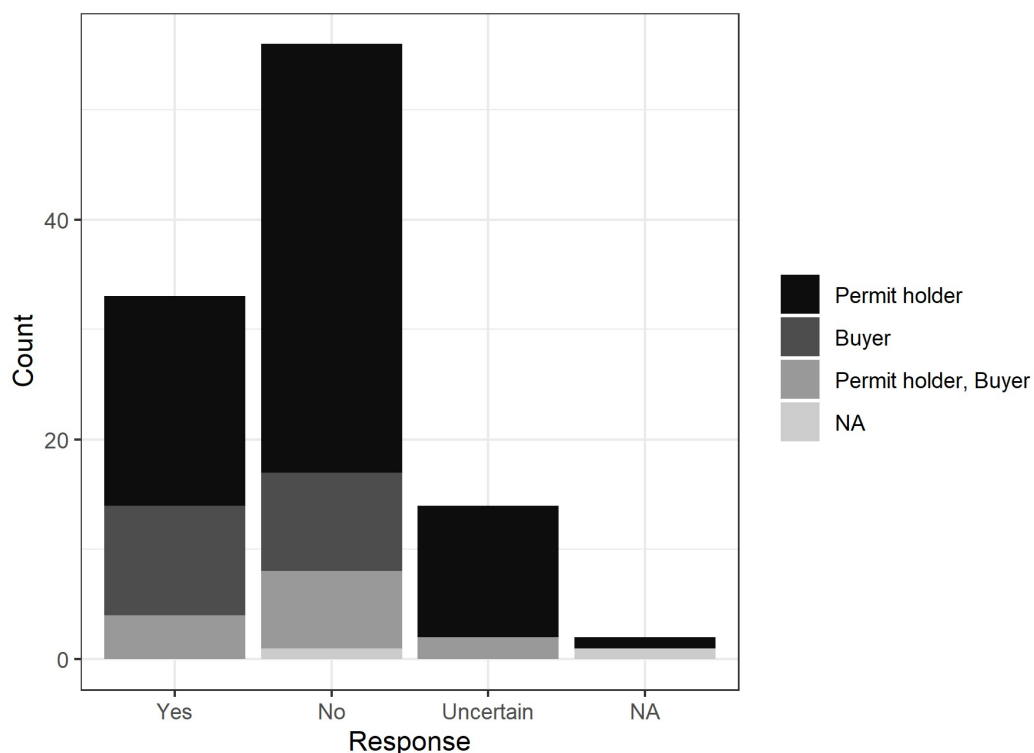


Figure 2. Number of respondents (n = 105), color coded by fishery participant type, who do or do not support a change allowing lobsters to be tailed. An NA participant type is a respondent who did not indicate if they were a permit holder and/or buyer, and an NA response is a respondent who left that question blank.

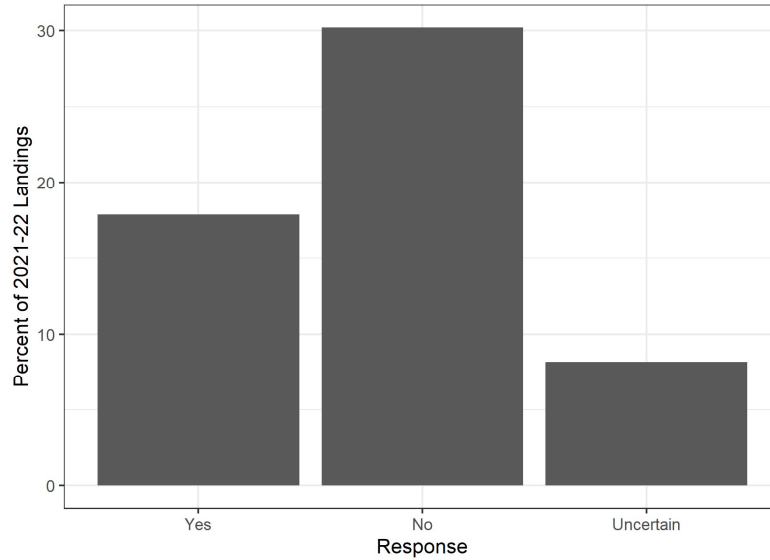


Figure 3. Percentage of 2021-22 landings reported by respondents, based on E-Tix data accessed on April 15, 2022.

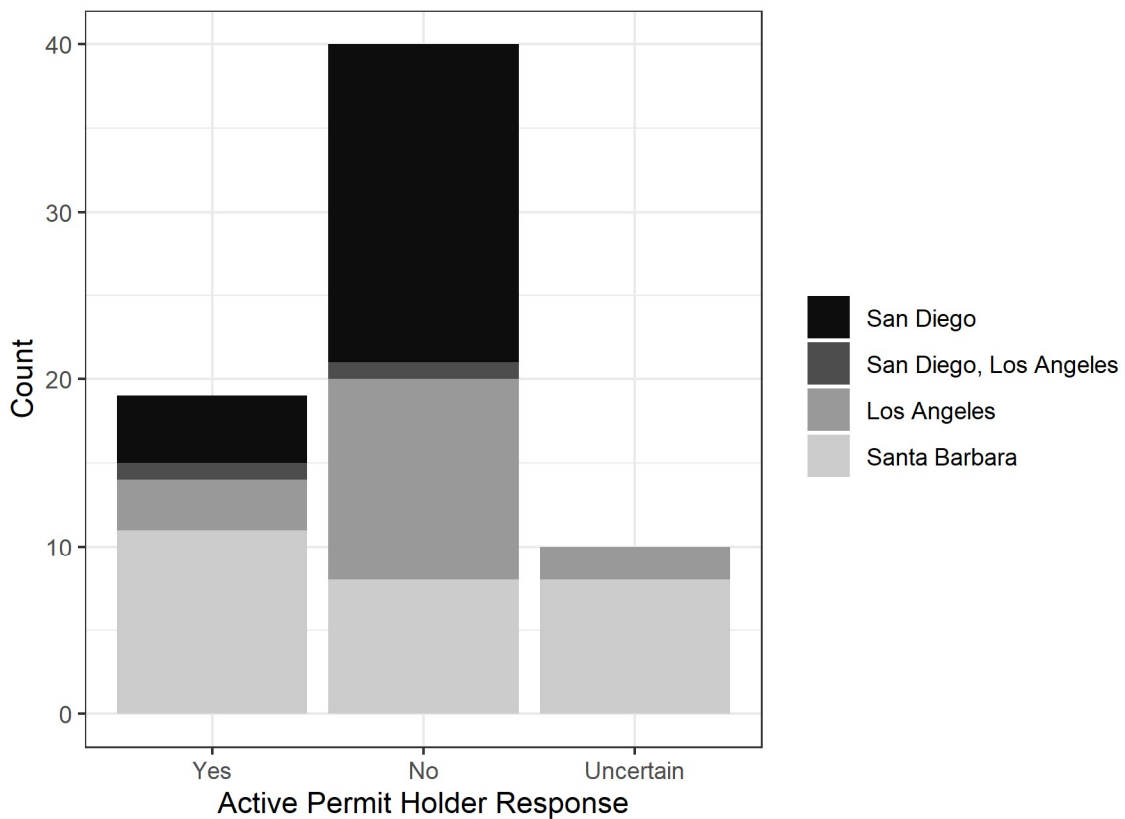


Figure 4. Number of respondents who made landings during the 2021-22 season, color coded by county, who do or do not support a change allowing lobsters to be tailed (n = 71). “Los Angeles” includes Orange and Los Angeles counties. “Santa Barbara” includes Ventura and Santa Barbara counties. Some respondents landed lobsters in San Diego, Orange, and Los Angeles counties.

QUESTION 2. On a scale of 1-5, with 1 meaning “Never” and 5 meaning “All the Time,” if lobster tails were allowed in markets, how often would you use this option?

Question 2 was intended to assess how often fishery participants would use a lobster tailing option. The answer to this question, in combination with questions 3 and 4, were designed to distinguish between participants who would use a lobster tail market as a regular component of their marketing approach, or ones who intend to use it only as a back-up option when the live market is not a financially or logistically viable option. Most respondents who answered “Yes” or “Uncertain” to Question 1 selected a value of “3” for this question, which was labeled as “Depends” in the survey (n = 27; Figure 5).

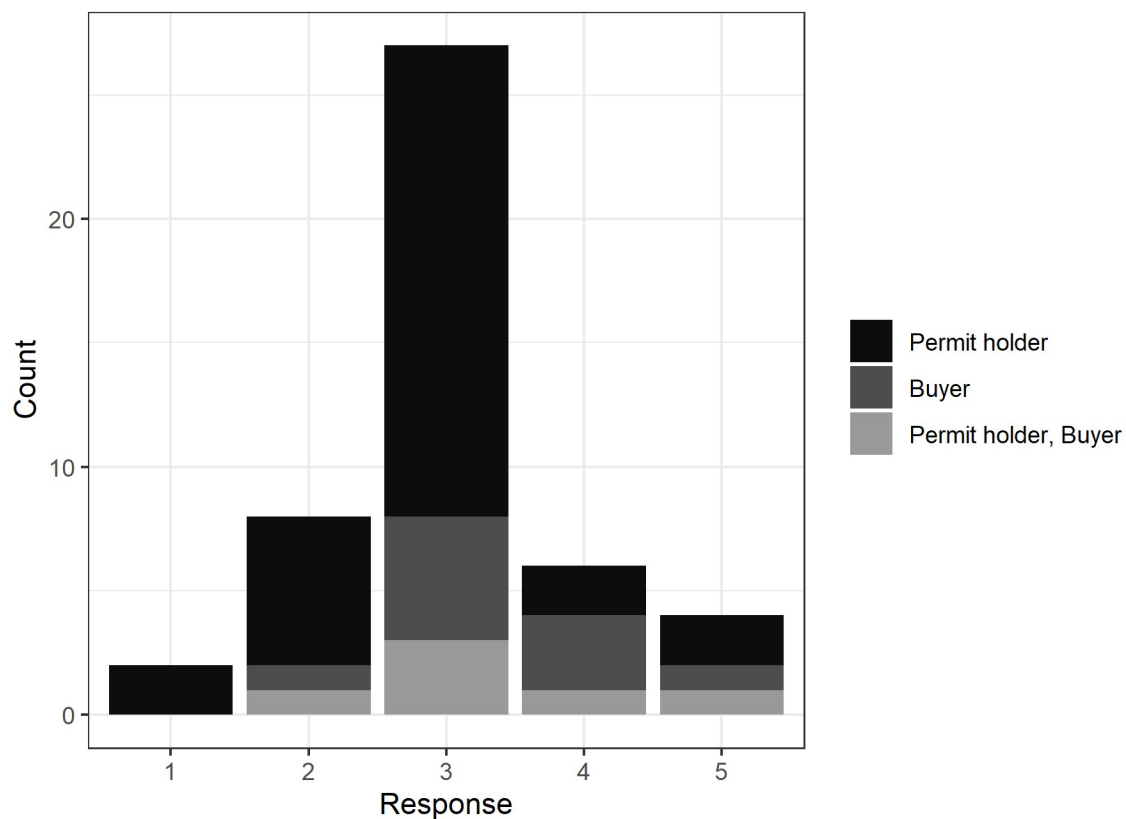


Figure 5. Responses to Question 2 assessing the frequency of use of a lobster tail market option. These results are only from respondents who answered “Yes” or “Uncertain” to Question 1 (n = 47).

QUESTION 3. Are you interested in participating in a tail market only as a back-up plan when live or whole lobsters cannot be sold?

The majority of respondents who answered “Yes” or “Uncertain” to Question 1 selected “Yes” to Question 3 (n = 36; Figure 6), indicating most who are interested in lobster tailing are interested in it as secondary option when the live market is not performing well. Only results from respondents who answered “Yes” or “Uncertain” to Question 1 are presented.

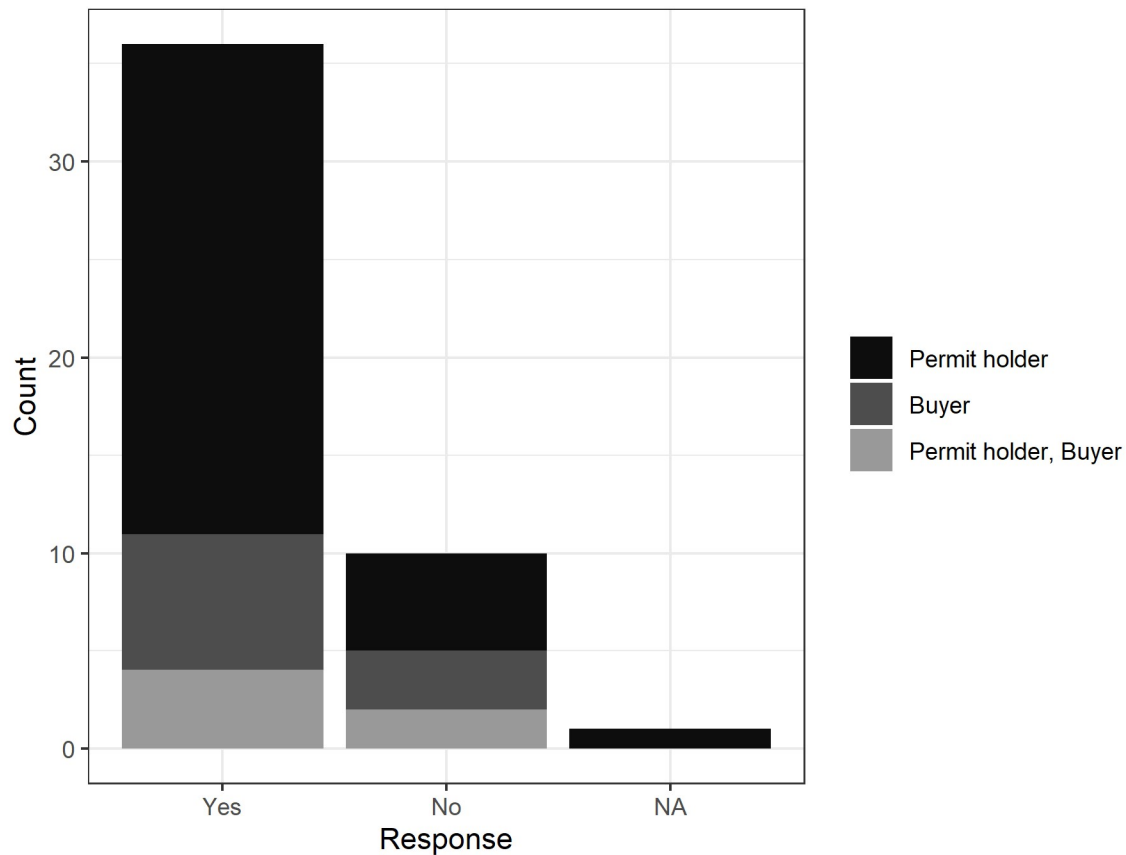


Figure 6. Responses to Question 3 assessing interest in lobster tailing as a back-up plan to the live market. A response of NA indicates the question was not answered. These results are only from respondents who answered “Yes” or “Uncertain” to Question 1 (n = 47).

QUESTION 4. Would you utilize a tail market if the live market is doing well?

The majority of respondents who answered “Yes” or “Uncertain” to Question 1 replied “Yes” to Question 4 (n = 23; Figure 7). This is in seeming contrast to the answers to Question 3. Permit holders made up a much larger proportion of “No” answers to this question than buyers. An additional 2 respondents indicated they were uncertain if they would use a tail market if the live market were doing well, which was not an official option presented in the survey.

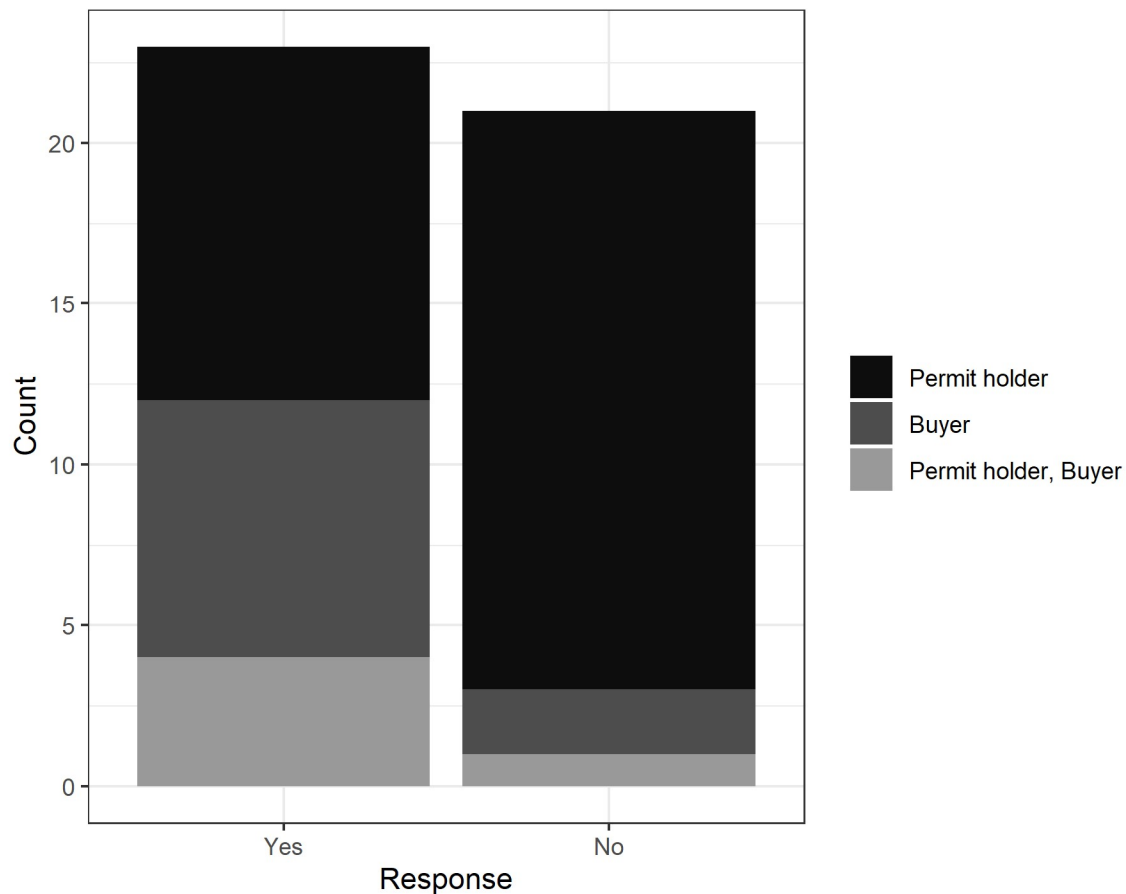


Figure 7. Responses to Question 4 assessing if fishery participants would utilize lobster tailing if the live market was doing well. These results are only from respondents who answered “Yes” or “Uncertain” to Question 1 (n = 47).

QUESTION 5. On a scale of 1-5, with 1 meaning “Not important at all” and 5 meaning “Extremely important,” how important is it to you that lobster tailing becomes a consistent market option available throughout every season?

This question was intended to determine if support for tailing is driven by intended use (as asked in Questions 2, 3, and 4), or by importance of tailing as an option within the fishery. Only results from respondents who answered “Yes” or “Uncertain” to Question 1 are presented (Figure 8).

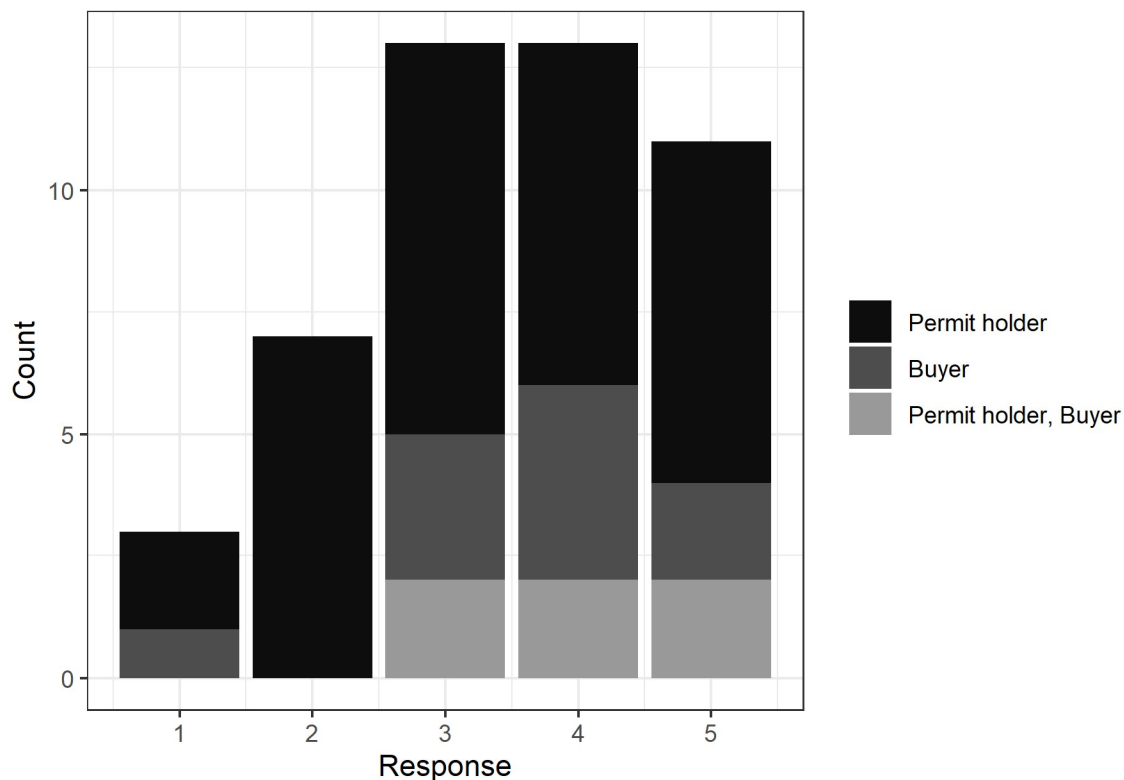


Figure 8. Responses to Question 5 assessing how important respondents feel a lobster tailing option is. These results are only from respondents who answered “Yes” or “Uncertain” to Question 1 (n = 47).

QUESTION 6. If you DO NOT support a tailing option, please select your reasons for why you do not want lobster tailing to be implemented.

This question was asked to determine the primary reasons a fishery participant does not support lobster tailing. Only results from respondents who answered “No” or “Uncertain” to Question 1 are presented (n = 70; Figure 9). The most chosen reason against lobster tailing was “Open door for illegal commercialization” (n = 54), followed by “Devalue live market” (n = 43). Respondents could choose more than one reason.

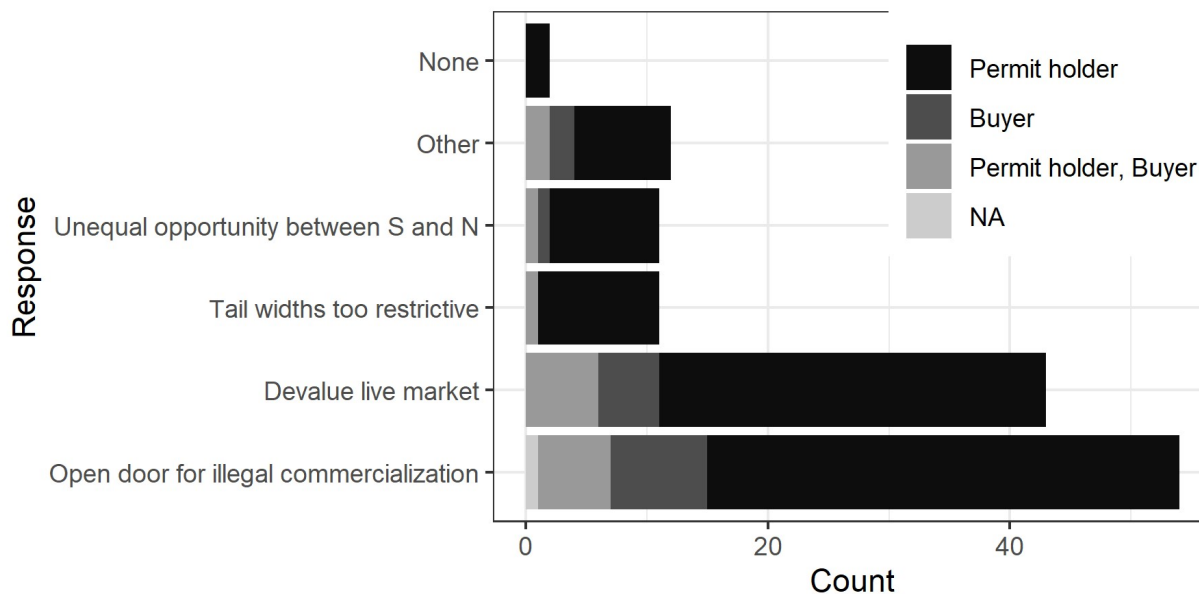


Figure 9. Responses to Question 6 assessing the reasons why fishery participants do not support lobster tailing. Only responses from participants who answered “No” or “Uncertain” to Question 1 are presented (n = 70). An NA participant type is a respondent who did not indicate if they were a permit holder and/or buyer.

QUESTION 7. Would you be in favor of allowing post-landing possession of live lobsters up to 7 days after the season closes, given the LED requirement that all traps be out of the water on the last day of the season?

The majority of respondents answered “No” to Question 7 (n = 52; Figure 10). Buyers most often answered “Yes” while the permit holders most often answered “No”.

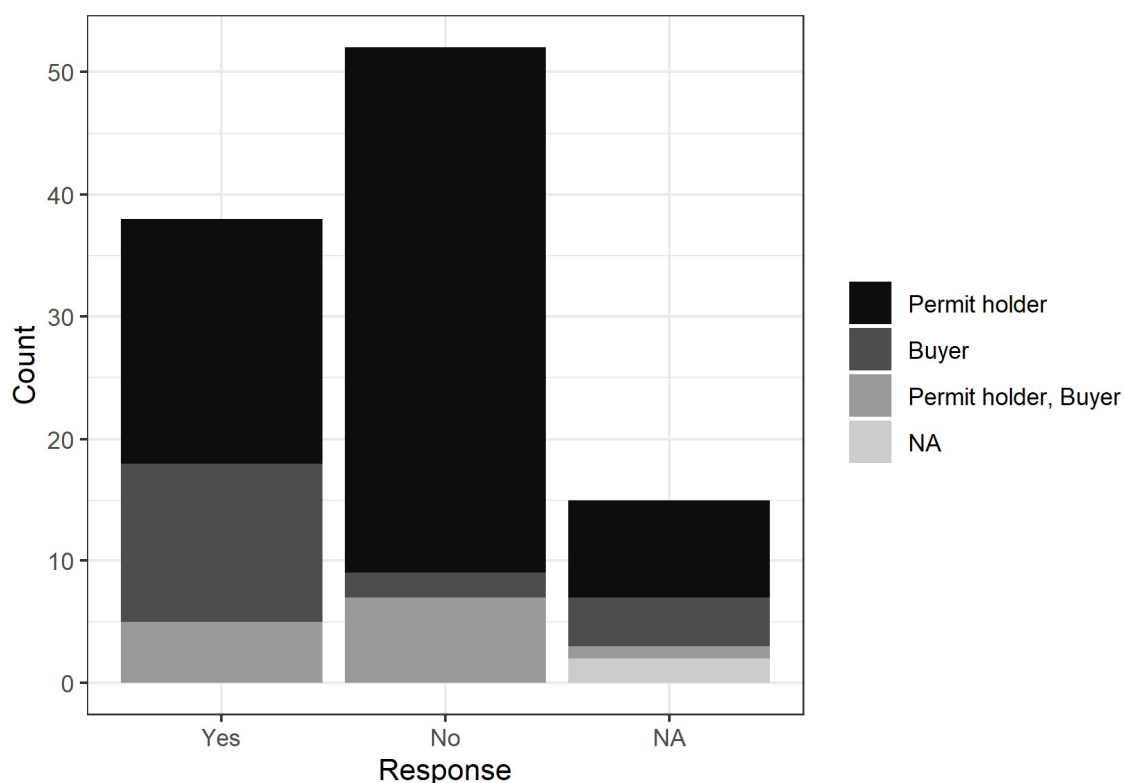


Figure 10. Responses to Question 7 assessing if fishery participants would want an allowance for live lobsters to be possessed after the season closure given the recommended conditions. An NA participant type is a respondent who did not indicate if they were a permit holder and/or buyer, and an NA response is a respondent who left that question blank.

Synthesis and Conclusions: Tailing

The overall responses to this survey indicate that the majority of the commercial lobster fishery participants either do not support or are uncertain about regulation changes allowing for the tailing of lobsters post-landing. In addition, the majority of supporters are based in the northern range of the fishery (Ventura and Santa Barbara counties) while the majority of opponents are from the southern range of the fishery (San Diego, Orange, and Los Angeles counties). It should be noted that to be confident that a tail came from a legal-sized lobster (based on carapace length), a conservative (relatively wide) tail width limit would be recommended. Lobsters caught in the south are smaller

on average than lobsters caught in the north, and therefore less of the legal-size lobsters caught in the south would qualify to be tailed. Question 6, attempted to assess the prevalence of this concern which asked why fishery participants do not support a tailing option. "Unequal opportunity between southern and northern fleet" was selected 11 times as a reason against lobster tailing (Question 6).

Of the respondents who are supporters or uncertain of allowing tailing, there were mixed responses to questions assessing the source and level of importance and need for lobster tailing. While most respondents in this category indicated they would only be interested in a tailing option as a back-up plan (Question 3), roughly the same number of respondents indicated they would (n = 23) use a tail market when the live market is doing well as those who indicated they would not (n = 21) (Question 4). In addition, the majority of respondents in this category stated their frequency of use of lobster tailing would depend on the situation (Question 2), but when ranking the importance of this change there was a skew towards the "Important" and "Very Important" responses (Question 5). Taken together, these responses suggest fishery participants who support tailing view it as an important addition to their marketing options but is not something they plan to utilize on a regular basis.

The most common reasons for not supporting a lobster tailing option were "Open door for illegal commercialization" and "Devalue the live market". The former is a concern tied to resource protection and enforceability of regulations, while the latter is primarily a market concern.

Synthesis and Conclusions: Possession after season closure

The majority of respondents do not support a regulatory change that would allow the possession of live lobsters after the season, given the condition that all traps be out of the water by the last day of the season. There was a clear difference between permit holder and buyer preference. The regulatory change was supported by a larger number of buyers, and not supported by a larger number of permit holders.